

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ERIC L. JEFFRIES,	)	CASE NO. C-1-02-351
	:	
Plaintiff,	)	JUDGE BECKWITH
	:	Magistrate Judge Hogan
v.	)	
	:	
CENTRE LIFE INSURANCE CO.,	)	
	:	
Defendant.	)	

**PLAINTIFF'S REPLY MEMORANDUM IN  
SUPPORT OF THE EXCLUSION OF DR. FRITZ**

At the continuation of the Final Pretrial conducted in this case on April 15, 2004, to overcome the Court's exclusion of Dr. Fritz as a witness at the trial, the defendant affirmatively represented that: (i) Mr. Jeffries failed to disclose at anytime his visit with her; and (ii) it did not know about Dr. Fritz until the fall of 2003.

On the basis of those representations, the Court expressed its intention to allow Dr. Fritz to testify, notwithstanding her late identification. Plaintiff contested the representation that defendant did not know of Dr. Fritz. Plaintiff then asked for permission to prove this point – and asked the Court to reconsider the issue of excluding Dr. Fritz from the trial.

Plaintiff has attached hereto the Affidavit of Eric Jeffries sent to DMS on August 3, 2001. (*Exh. 1, Claim File 00545-00549*). Attached to the Affidavit is a Chronology of Care. *Id.* Identified in the Chronology of Care is Dr. Fritz's full name, her specialty, and the disclosure of Mr. Jeffries April 1998 visit with her. *Id.*

These documents are contained in the Claim File at Claim 00545-00549.

Plaintiff never failed to disclose to DMS anything about his medical care. Rather, as contended by Plaintiff, defendant decided it would deny the claim prior to August 2001 and, as shown through this dispute – defendant didn't know about Dr. Fritz because it never looked at the medical records or other material submitted.

Dr. Fritz was not undisclosed by plaintiff. Because she was not identified as a trial witness until after the time contemplated in the Court orders and Rule 26, she should be excluded from testifying at trial.

Respectfully submitted,

OF COUNSEL

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**CERTIFICATE OF SERVICE**

The foregoing was electronically filed and thereby served on William R. Ellis, Esq., Wood & Lamping LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202, this 15<sup>th</sup> day of April, 2004.

/s Michael A. Roberts